



*v. Superior Fireplace*, 2003 WL 22114026 (6<sup>th</sup> Cir. Sept. 10, 2003) (citing *Haines v. Kerner*, 404 U.S. 519, 520 (1972)); *McNeil v. United States*, 508 U.S. 106 (1993).

Rule 12(a)(2), Federal Rules of Civil Procedure, provides that the “United States, a United States agency, or a United States officer or employee sued only in an official capacity must serve an answer to a complaint . . . within 60 days after service on the United States Attorney.” Service of a summons is governed by Rule 4, Federal Rules of Civil Procedure. Rule 4(c) requires that “[a] summons must be served with a copy of the complaint.” Rule 4(c) also makes clear that “[t]he plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service.” FRCP 4. Rule 4(i) reiterates the requirement that the complaint must be served with the summons when serving the United States. See FRCP 4(i).

Rule 4(m) of the Federal Rules of Civil Procedure states:

If a defendant is not served within 120 days after the complaint is filed, the court, on motion or on its own after notice to the plaintiff, must dismiss the action without prejudice against the defendant or order that service be made within a specified time.

Dismissal for non-compliance with Rule 4(m) is mandatory, absent a showing of “good cause.” *Buttrom v. Job-Riveria*, 1991 WL 42179, \*1 (6<sup>th</sup> Cir. Mar. 28, 1991) (citing *United States v. Gluklick*, 801 F.2d 834, 837 (6<sup>th</sup> Cir. 1986)). Plaintiff has not shown “good cause” for his failure to serve the defendant. Plaintiff filed this action on September 2, 2012,

and has failed to serve the complaint and summons upon defendant, despite being granted several extensions of time to do so. Accordingly, the court finds that this action should be dismissed pursuant to Rule 4(m) because service was not accomplished within 120 days after the complaint was filed and plaintiff has not shown good cause for his failure to complete service. Because plaintiff has failed to timely serve defendant as required by Rule 4(m) of the Federal Rules of Civil Procedure, this action is hereby **DISMISSED**.

**ENTER:**

s/ Thomas W. Phillips  
United States District Judge